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Congress of the United States
CONGRESSIONAL OVERSIGHT PANEL

Opening Statement of Ted Kaufman

Congressional Oversight Panel Hearing on TARP Foreclosure Mitigation Programs

October 27, 2010

Good morning. My name is Ted Kaufman, and I am the chairman of the Congressional Oversight Panel for the Troubled Asset Relief Program (TARP). We are here today to evaluate the progress of Treasury's foreclosure prevention programs and to examine the impact of recently reported irregularities in the foreclosure process.

I have always believed that sound oversight must start with an understanding of a program's goals, so let us begin by recalling the administration's original goal for foreclosure prevention. In February 2009, the president announced an aim to help "as many as three to four million homeowners to modify the terms of their mortgages to avoid foreclosure."

At the time, our economy was on track to experience more than eight million foreclosures, so the goal was always modest compared to the scale of the problem. Certainly it was modest compared to the boldness shown in rescuing AIG, Fannie Mae, Freddie Mac, Bank of America, Citigroup, and the auto companies. Yet now, two years later, we can see that even this modest goal will not be met. To date fewer than half a million homeowners have received permanent mortgage modifications through Treasury's program, and as many as half of these borrowers will ultimately redefault and lose their homes.

Recently, as the goal of preventing three to four million foreclosures has appeared increasingly distant, Treasury has redefined its aim. The goal, Treasury now says, is to offer a temporary mortgage modification to three to four million homeowners. The distinction may sound subtle, but the difference is vast. Borrowers who are offered temporary modifications may not accept. Those who accept may not complete the steps required to receive a permanent modification. Those who receive a permanent modification may redefault and lose their homes. At the rate that homeowners are falling through these cracks today, three million modification offers may translate into only a few hundred thousand foreclosures prevented.

For all of these reasons, a goal of offering three to four million modifications is hardly a goal at all. It divorces the program's measurement of success from its ultimate aim: to keep homeowners in their homes. In many ways, it is like a major league batter pledging to swing at every pitch. What matters is not how often you swing the bat, but how often you reach the bases.

I hope that Treasury takes today's hearing as an opportunity to define, in a detailed, public way, more concrete goals for success in foreclosure prevention. Most fundamentally, how many foreclosures must be prevented? What redefault rate can we expect? How many temporary modifications will convert to permanent status? Clear answers are critical not only to our oversight work but to Treasury's own ability to measure and improve its results.

I also hope to hear evidence that the foreclosure picture improved dramatically since the Panel last examined the issue. Yet all evidence appears to be to the contrary. Of particular concern are reports that banks and loan servicers may have rushed the foreclosure process by relying on affidavits "robo-signed" by employees with no knowledge of the underlying facts. These reports are already undermining investor and homeowner confidence in the mortgage market, and they threaten to undermine Americans' fundamental faith in due process.

If these reports reflect a disregard on the part of banks for the legal requirements of foreclosure, that alone would be unconscionable. Yet it is conceivable that the problem is even worse: that banks have failed to follow the legal steps necessary to ensure clear title. If investors lose confidence in the ability of banks to document their ownership of mortgages, the financial industry could suffer staggering losses. The possibility is especially alarming coming so soon after taxpayers spent billions of dollars to bail out these very same institutions.

I do not want to prejudge what we will hear from today's witnesses, but I must say this: I am concerned. I am concerned in part because it is this Panel's mandate to oversee Treasury's foreclosure programs and the overall stability of the financial system. But much more critically, I am concerned because, across America, our mothers and fathers and sons and daughters are losing their homes.

I do not pretend that every foreclosure in this country can or should be prevented – but even so, every foreclosure is a tragedy. Every time a family is cast out of their home, their future is cast into doubt, their neighborhood's home prices plummet, and their town's stability diminishes. The American dream takes a step backward. Treasury cannot and should not prevent every foreclosure in this country, but it can and must do far, far better.

Before we proceed, I would like to offer my colleagues on the Panel an opportunity to make their own opening remarks.